REMARKS

Claims 1, 2, 14, 16, 18-19, and 26, are currently amended, and appear to be in condition for allowance. New claim 27 is added, and appears to be in condition for allowance. No new matter has been added. Support for these amended and new claims is outlined below as follows:

Amended claim 1 is supported by pg. 17, lines 7-8, Figure 10.

Amended claim 2 is supported by pg. 17, lines 7-8, Figure 10.

Amended claim 14 is supported by pg. 26, lines 26-29, pg. 17, lines 7-8, Figure 10.

Amended claim 16 is supported by pg. 26, lines 26-29.

Amended claim 18 is supported by pg. 37, lines 13-30.

Amended claim 19 is supported by original claim 19.

Amended claim 20 is supported by original claim 20.

Amended claim 21 is supported by original claim 21.

Amended claim 26 is supported by pg. 24, lines 19-27.

New claim 27 is supported by pg. 22, lines 13-16, Figures 37-39.

SUMMARY OF EXAMINER INTERVIEWS

A first telephone interview was held between Examiner Johnson and Applicant's Attorney Charles A. Lemaire on May 1, 2006. During the course of that interview issues relating to how the reticle views windage versus lead angle was discussed. Proposed claim language was discussed, but no agreement reached. Examiner Johnson agreed to aid in suggesting patentable claim language in the next response, if so requested.

A second telephone interview was held between Examiner Johnson and Applicant's Attorney Theodore C. McCullough on July 14, 2006. Certain amendments to claim 1, and the relevance, as prior art, of The *King* patent (U.S. Pat. No. 2,056,469) were discussed. During the course of the interview, Examiner Johnson and Applicant's Attorney McCullough agreed that claim 1 would be allowed when certain claim language was added as in claim 1 as currently amended. Additionally, Examiner Johnson agreed to review the currently amended claim set vis-à-vis the *King* patent for purposes of 35 USC § 103(a) and, if such is required, suggest

patentable claim language in the next response. No agreement beyond what is outlined above was reached in the telephone interview.

Examiner Johnson also agreed to cite the *King* patent (U.S. Pat. No. 2,056,469) in his next office action, and Applicant respectfully requests that an initialed form SB08 with the *King* patent be provided by the Examiner.

Claim Rejections – 35 USC § 102(b)

Claims 1, 3-5, 10-12, 14-17, 19-22, and 26 were rejected under 35 USC § 102(b) as being anticipated by *Sammut* (United States Pat. No. 5,920,995). Based upon Examiner's suggested claim language, these claims have been amended. Accordingly, reconsideration of the rejection and allowance of these claims is respectfully requested.

Claims 1, 3-5, 10-12, 14-17, 19-22, and 26 were rejected under 35 USC § 102(b) as being anticipated by *Sammut*. Applicant respectfully traverses. Pursuant to MPEP 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (MPEP 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).) Here, not each and every element in the claims is disclosed in *Sammut*. *Sammut* discloses a telescopic sight (see Col. 4, lines 11-12.) and only references windage (see Col. 5, lines 29-35.), as oppose to motion, as a variable used in targeting an object. Claims 1, 14 and 19 have been amended, and along with their dependent claims, appear to be in a condition for allowance in view of the cited references including the *King* patent (i.e., U.S. Pat. No. 2,056,469.). Accordingly, reconsideration of the rejection and allowance of these claims is respectfully requested.

Claim Rejections – 35 USC § 103(a)

Claims 24 and 25 were rejected under 35 USC § 103(a) as being obvious via *Sammut* in view of *Lyman Jr.* (United States Pat. No. 1,901,399). Based upon Examiner's suggested claim language, these claims have been amended. Accordingly, reconsideration of the rejection and allowance of these claims is respectfully requested.

Claims 24 and 25 were rejected under 35 USC § 103(a) as being obvious via *Sammut* in view of *Lyman Jr.* Applicant respectfully traverses. In order to establish a *prima facie* case obviousness there must be, among other things, three factors that must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See MPEP 2143.) Moreover, "impermissible hindsight" may not be used to establish obviousness. (See MPEP 2141.) Here, not each and every element in the claims is disclosed in the combination of *Sammut* and *Lyman Jr.* *Sammut* discloses a telescopic sight (see Col. 4, lines 11-12.) and only references windage (see Col. 5, lines 29-35.) as a basis for targeting, whereas the gun sight disclosed in claims 24 and 25 is a non-telescopic sight used for targeting objects in motion. Claims 24 and 25 have been amended, and, along with their dependent claims, appear to be in a condition for allowance in view of the cited references including the *King* patent (i.e., U.S. Pat. No. 2,056,469.). Accordingly, reconsideration of the rejection and allowance of these claims is respectfully requested.

Claim Rejections – 35 USC § 102(b)

Claims 19-22, and 26 were rejected under 35 USC § 102(b) as being anticipated by *Shepard* (United States Pat. No. 4,584,776). Based upon Examiner's suggested claim language, these claims have been amended. Accordingly, reconsideration of the rejection and allowance of these claims is respectfully requested.

Claims 19-22, and 26 were rejected under 35 USC § 102(b) as being anticipated by *Shepard*. Pursuant to MPEP 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (MPEP 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).) Applicant respectfully traverses. Examiner asserts at pg. 4, ¶ 7 of the present office action that "each of the silhouetted men 93-103 in combination with the windage adjustment 141" provides a function to accommodate for motion.

As previously argued, each silhouetted men 93-103 of Figure 7 is associated with a "respective bullet drop compensation aiming point 105, 107, 109, 111, 113, and 115." (See *Shepard*, Col. 6, lines 24-27.) No mention is made of using the invention disclosed in *Shepard* for moving targets. Rather, the combination of the variables of windage and bullet drop still assumes a stationary target, albeit a stationary target at a great distance and subjected to wind. Accordingly, reconsideration of the rejection and allowance of these claims is respectfully requested.

Claim Rejections – 35 USC § 103(a)

Claims 19-22, and 26 were rejected under 35 USC § 103(a) as being obvious via *Gregory* (United States Pat. No. 4,787,739) in view of *Shepard*. Based upon Examiner's suggested claim language, these claims have been amended. Accordingly, reconsideration of the rejection and allowance of these claims is respectfully requested.

Claims 19-22, and 26 were rejected under 35 USC § 10(a) as being obvious via *Gregory* (United States Pat. No. 4,787,739) in view of *Shepard*. Applicant respectfully traverses. In order to establish a *prima facie* case obviousness there must be, among other things, three factors that must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See MPEP 2143.) Moreover, "impermissible hindsight" may not be used to establish obviousness. (See MPEP 2141.) *Gregory* discloses a telescopic range finder, and does not compensate for target motion. The present claimed invention is not anticipated or obvious in view of the cited references, including *King*. Accordingly, reconsideration of the rejection and allowance of these claims is respectfully requested.

Previously withdrawn claims

Claims 6-9 were previously withdrawn due to a restriction requirement. Since these claims depend from claim 1 (which appears allowable), these claims appear in condition for

allowance. Applicant requests that these claims be reconsidered and be removed from withdrawn status. Applicant reserves the right to pursue the restricted subject matter and any other invention of the application in a later divisional or continuation.

Allowable Subject Matter

Claim 13 has been allowed, and claims 2, 18, and 23 would be allowed if placed into independent form. (See Office Action pg. 5, ¶ 9-10.) Pursuant to Examiner's suggestion, Applicant has amended claims 2 and 18 by placing them into independent form. Applicant believes that given the amendments to the claim from which claim 23 depends, claim 23 is also now in allowable form.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney ((952) 278-3508) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 502931.

Respectfully submitted,

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